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April 19, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

ATTN: The Honorable Joseph Chachkin
Administrative Law Judge

RE: MM Docket No. 94-88, Application of Community Educational
Association for Channel 201A, Holly Hill, Florida (BPED-
930316MF)

Dear Mr. Caton:

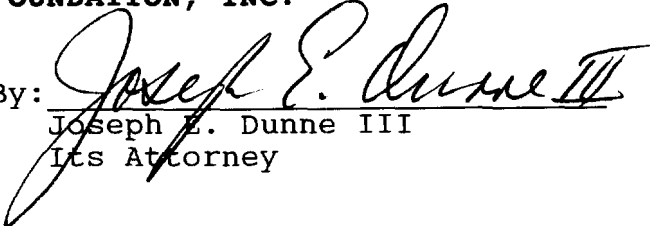
Transmitted herewith on behalf of Central Florida Educational
Foundation, Inc. is an original and six copies of its "Petition for
Reconsideration" filed in connection with the above-referenced
application.

Should any questions arise concerning this matter, kindly contact
the undersigned directly.

Respectfully submitted,

CENTRAL FLORIDA EDUCATIONAL
FOUNDATION, INC.

By:


Joseph E. Dunne III
Its Attorney

JED:A41

xc: All Per Attached Certificate of Service
James Hoge

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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

MM Docket No. 94-88

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APR 19 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In Re Applications of

COMMUNITY EDUCATIONAL ASSOCIATION
Holly Hill, Florida

File No. BPED-930316MF

For a Construction Permit for
a New Noncommercial FM
Station on Channel 212A

DOCKET FILE COPY ORIGINAL

To: Administrative Law Judge Joseph Chachkin

PETITION FOR RECONSIDERATION

Central Florida Educational Foundation, Inc. ("CFEF") by its undersigned attorney and pursuant to Section 1.106 of the Commission's Rules and Regulations. 47 C.F.R. §1.106 (1994) hereby petitions the Administrative Law Judge to reconsider his action granting the above-captioned application of Community Educational Association in his Initial Decision of Administrative Law Judge Joseph Chachkin, FCC 95D-4, released March 20, 1995. As grounds for its Petition, CFEF shows and states as follows.

1. CFEF is aware that the Presiding Officer does not have the authority to consider its Petition under section 1.267(c) of the Commission's rules absent a remand or other action by the Review Board. CFEF has accordingly this day filed a "Petition To Intervene/Petition For Remand" requesting the Review Board to permit it to intervene in this application proceeding and to remand

the case to the Presiding Officer to permit him to review and consider this Petition for Reconsideration.

2. CFEF is the permittee of WEAZ(FM), a non-commercial station on channel 202C2, Union Park, Florida (BMPED-881207MA), with a specified Effective Radiated Power ("ERP") of 1.9 kW. CFEF filed an application to modify its authorization to increase its ERP to 2.5 kW on May 11, 1993 (BMPED-930511MA). CFEF's application was filed on the cut-off date of a mutually exclusive major change application filed by Mims Community Radio, Inc. (BMPED-930113MC).

3. Subsequently, on August 30, 1994, following the designation of its application for consolidated hearing with that of another applicant, Community Educational Association ("CEA") filed an amendment to its then pending application seeking to remove the mutual exclusivity with its competing applicant by specifying channel 201A instead of the channel 212A sought in its original application. An amendment seeking to change frequency is defined as a major change application pursuant to section 73.3573(a)(1) and, under normal circumstances, would require the specification of a new cut-off date in published public notice. Section 73.3573(e). However, in this instance CEA's amendment was accepted and the application of CEA's competing application was granted on September 13, 1994 in Memorandum Opinion and Order, FCC 94M-521.

4. Despite the fact that a change of channel is a major change under section 73.3573(a)(1) of the Commission's rules, normally requiring both a new file number and a new cut-off date,

there was no public notice published of the proposed amendment and, more importantly, no cut-off published which would give CFEF notice of the pendency of what is essentially a new application which could, and as set forth below and in Attachment 1, does adversely impact its pending major change application. Moreover, acceptance of the amendment a scant 14 days after its filing, in conjunction with the lack of any public notice of the major change that was filed, precluded CFEF from either analyzing the impact of the proposed major change on its pending application or from seeking to participate in the proceeding at that time. Accordingly, the grant of CEA's application as announced in the Initial Decision was, effectively, the first public notice that CFEF has had of CEA's proposed major change.

5. Grant of CEA's application would adversely effect CEA's pending and cut-off application. As set forth in Attachment A, "Engineering Statement," CEA's proposed amended application overlaps the contour of CFEF's application to modify its construction permit (BMPED-930511MA). It does, accordingly, threaten electrical interference to the facilities proposed by CFEF contrary to section 73.509(a) of the Commission's rules and regulations. CEA does not request a waiver of section 73.509(a). Applications which do not comply with section 73.509(a) and which do not request a waiver of the Commission's rules are defective and should be dismissed.

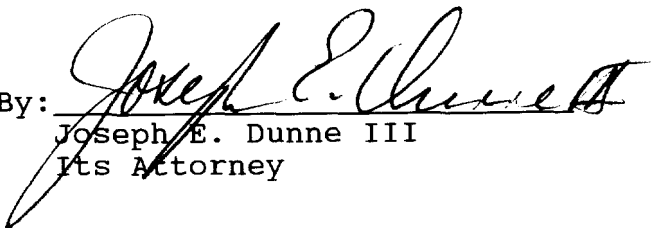
6. Section 1.106(b)(1) of the Commission's rules provides that if a petition for reconsideration is not filed by a party to

the proceeding the party must show "good reason why it was not possible for him to participate in the earlier stages of the proceeding." The reason why CFEF could not participate earlier in this proceeding is self-evident--its only effective notice of the filing of what the Commission's rules define as a major change to CEA's pending application came when the Initial Decision was released. CFEF is, accordingly, seeking to participate as soon as practicably possible after it received notice of CEA's offending amendment.

WHEREFORE, the foregoing premises considered, Central Florida Educational Foundation, Inc. respectfully requests that the Presiding Officer reconsider his March 20, 1995 action granting the amended application of Community Educational Foundation, Inc., and deny the amended application for failing to comply with section 73.509(a) of the Commission's rules.

Respectfully Submitted,

**CENTRAL FLORIDA EDUCATIONAL
FOUNDATION, INC.**

By: 
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Its Attorney

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CENTRAL FLORIDA EDUCATIONAL FOUNDATION, INC.

ATTACHMENT A
ENGINEERING STATEMENT

ENGINEERING STATEMENT

WITH REFERENCE TO OVERLAP BETWEEN PROPOSED Ch201A at HOLLY HILL, FLORIDA AND WEAZ(FM), Ch202C2, UNION PARK, FLORIDA

The attached materials have been prepared on behalf of the Central Florida Education Foundation, Inc., Permittee of non-commercial FM station WEAZ(FM), Union Park, Florida.

WEAZ holds a Construction Permit for operation on Channel 202C2 at 1.9 kW ERP (BPED-881207MA) and has an outstanding Application to increase the ERP to 2.5 kW (BMPED-930511IE). The Application to increase power is "cut off". Therefore, other applications which are mutually exclusive with it are technically defective.

Community Educational Association ("CEA"), in MM Docket 94-88, proposed operation at Holly Hill, Florida on Channel 212. To remove a conflict with Cornerstone Community Radio, Inc., CEA filed a post-designation engineering amendment (BPED930316MF), changing the proposed channel to 201A.

The new channel is first-adjacent to WEAZ's outstanding Application to increase power. There may not be overlap between the 60 dBu, F(50,50) contour of either station and the 54 dBu, F(50,10) contour of the other station. As detailed in the attached exhibits, the post-designation engineering amendment filed by CEA is defective in that there is overlap between CEA's proposed 60 dBu, F(50,50) contour and the 54 dBu, F(50,10) contour of WEAZ's 2.5 kilowatt Application.

TECHNICAL ANALYSIS

The attached Figure 1 is a 1:1,000,000 scale map showing the overall geometry that exists between the two facilities. Figure 2 presents the same information at 1:250,000 scale. An even more detailed view of this information is given in Figure 3, at 1:100,000 scale.

It is clear at Figures 2 and 3 that there is overlap between the stations. The site-to-site bearing from CEA's proposal to WEAZ is 172.9 degrees True. On a line drawn directly between the two stations, CEA has provided contour clearance. However, both stations employ directional antennas. The shape of the proposed CEA directional pattern is such that the field increases as the observation point moves to the east. The shape of the WEAZ directional pattern is also such that the field increases as the observation point moves to the east. This leads to contour overlap which is off-axis.

Critical decisions should not be trusted to the accuracy of a computer plotting program. For this reason, one particular bearing has been numerically analyzed by hand to confirm the graphical interpretation.

	CEA	WEAZ
CITY OF LICENSE:	Holly Hill	Union Park
FCC FILE NUMBER:	BPED930316MF	BMPED930511IE
LATITUDE:	26-16-44 North	28-36-08 North
LONGITUDE:	81-11-25 West	81-05-37 West
ERP:	2.0 kW	2.5 kW
ANTENNA IDENTIFIER:	ODDODD930316MF	ODDODD930511IE

The relative voltage field of antenna pattern ODDODD930316MF, as proposed by CEA, is 0.700 at a bearing of 140 degrees True. Using CEA's peak ERP of 2.0 kilowatts, this produces an ERP of 980 watt on this azimuth. The elevation on this bearing is 55.79 meters above average terrain, placing the 60 dBu, F(50,50) contour to 13.62 kilometers.

The coordinates of a point removed from the proposed CEA site by 13.62 kilometers on a bearing of 140 degrees (and therefore on the CEA 60 dBu contour) are 29-11-06 North, 81-06-00 West. This same point is located 64.59 kilometers from the WEAZ site on a bearing of 359.5 degrees True.

The relative field of the WEAZ antenna, reference ODDODD930511IE, is 0.840 on a bearing of 0 degrees True (0.5 degrees displaced from 359.5 degrees). Using the proposed peak ERP of 2.5 kilowatts, the ERP at 0 degrees is 1.764 kilowatts. Using the height above average of 448.71 meters along this radial, the WEAZ proposed 54 dBu, F(50,10) contour extends to 65.08 kilometers.

The proposed CEA contour of relevance is 64.59 kilometers from the WEAZ site. However, the relevant WEAZ contour extends to 65.08 kilometers. Numerical evaluation confirms the condition shown in the attached Figures. There is prohibited contour overlap.

CONCLUSIONS

The CEA post-designation engineering amendment (BPED930316MF) is technically defective. It would produce contour overlap with the cut-off Application of WEAZ, in violation of Part 73.509(a). of FCC Rules, and should therefore be **denied**.

The attached materials were prepared by me or at my direction and are true and correct to the best of my knowledge and belief.



Glen Clark, P.E.
Georgia registration #18713

April 17, 1995

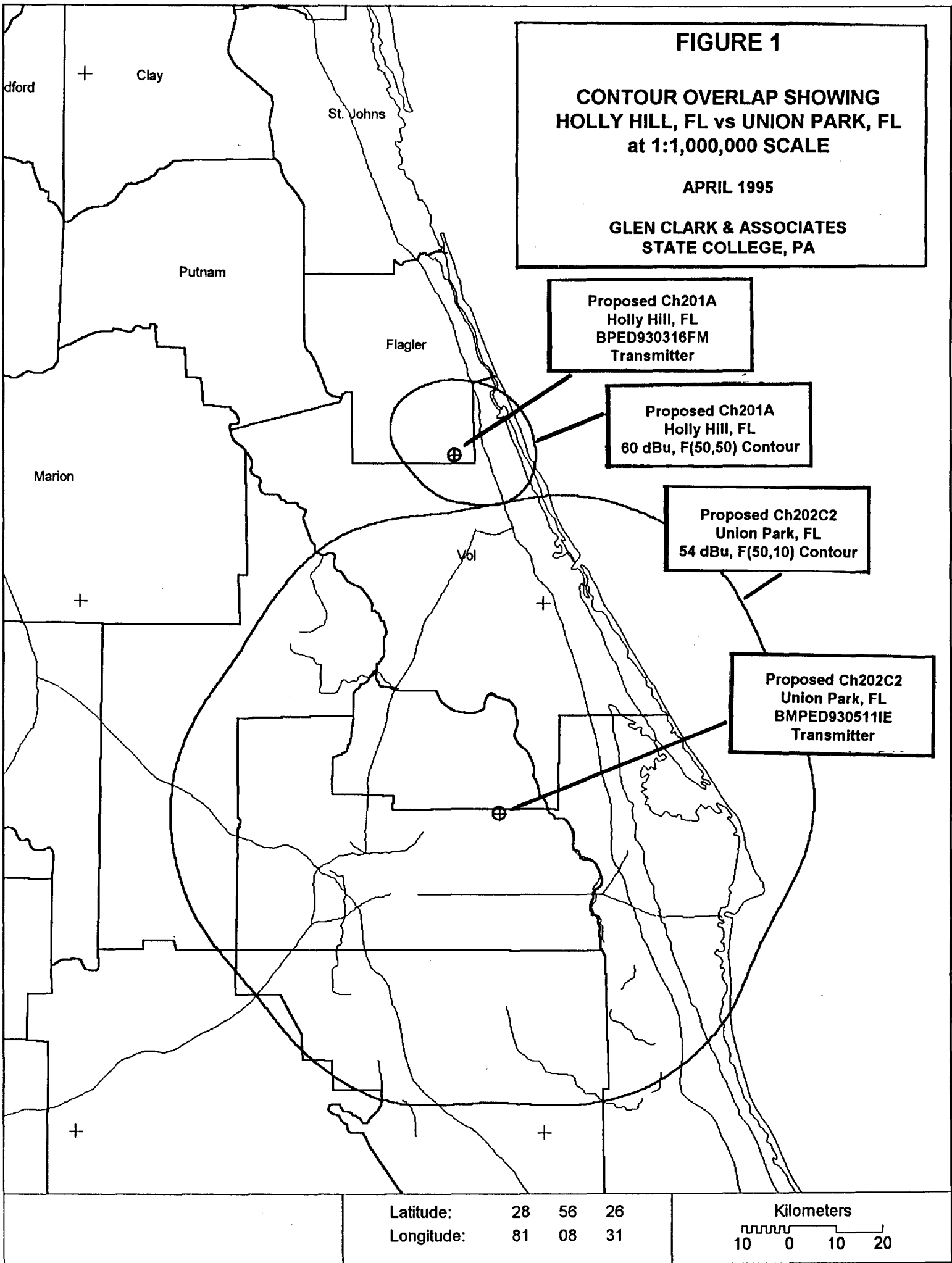


FIGURE 1

**CONTOUR OVERLAP SHOWING
HOLLY HILL, FL vs UNION PARK, FL
at 1:1,000,000 SCALE**

APRIL 1995

**GLEN CLARK & ASSOCIATES
STATE COLLEGE, PA**

**Proposed Ch201A
Holly Hill, FL
BPED930316FM
Transmitter**

**Proposed Ch201A
Holly Hill, FL
60 dBu, F(50,50) Contour**

**Proposed Ch202C2
Union Park, FL
54 dBu, F(50,10) Contour**

**Proposed Ch202C2
Union Park, FL
BMPED930511IE
Transmitter**

**Latitude: 28 56 26
Longitude: 81 08 31**

Kilometers
10 0 10 20

FIGURE 2

**CONTOUR OVERLAP SHOWING
HOLLY HILL, FL vs UNION PARK, FL
at 1:250,000 SCALE**

APRIL 1995

**GLEN CLARK & ASSOCIATES
STATE COLLEGE, PA**

Flagler

Proposed Ch201A
Holly Hill, FL
BPED930316FM
Transmitter

Proposed Ch201A
Holly Hill, FL
60 dBu, F(50,50) Contour

Proposed Ch202C2
Union Park, FL
54 dBu, F(50,10) Contour

OVERLAP AREA

Latitude: 29 14 51
Longitude: 81 12 46

Meters
2500 0 2500 5000

FIGURE 3

CONTOUR OVERLAP SHOWING
HOLLY HILL, FL vs UNION PARK, FL
at 1:100,000 SCALE

APRIL 1995

GLEN CLARK & ASSOCIATES
STATE COLLEGE, PA

Proposed Ch201A
Holly Hill, FL
BPED930316FM
Transmitter



140 DEGREE TRUE RADIAL

Proposed Ch201A
Holly Hill, FL
60 dBu, F(50,50) Contour

OVERLAP AREA

Proposed Ch202C2
Union Park, FL
54 dBu, F(50,10) Contour

Latitude: 29 12 50
Longitude: 81 08 27

Meters
1000 0 1000 2000

CERTIFICATE OF SERVICE

I, Jonathan J. Dunne, a paralegal in the law offices of Joseph E. Dunne III, Esq., hereby certify that I caused the foregoing "Petition for Reconsideration" to be sent, by first class U.S. mail, postage prepaid, to the following:

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Deputy Chief for Law, The Review Board
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(Attorney For Community Educational Association)

By: 

Jonathan J. Dunne

* Hand Deliver